

United States District Court
Southern District of New York

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SECURITIES AND EXCHANGE COMMISSION,	:
	:
Applicant,	:
	:
-against-	:
	:
CRAIG P. KENNEDY,	:
	:
Respondent.	:
	:
-----X	

No. 12-MC-00169

DECLARATION OF PETER BROWN DOLAN

I, Peter Brown Dolan, declare and say that:

1. I am an active member, in good standing, of The State Bar of California, with membership number 40766, and a copy of my State Bar page is attached hereto as Exhibit A. I am also admitted to practice before the Supreme Court of the United States; the United States Court of Appeals for the Ninth Circuit; and the United States District Courts for each of the four (Northern, Central, Eastern and Southern) Districts of California.

2. I make this Declaration based upon my own personal knowledge, and upon information given to me by Craig Patrick Kennedy, Esq. ("Mr. Kennedy") whom I represent in respect of the investigation being conducted by the Enforcement Division of the U.S. Securities and Exchange Commission ("SEC"), which investigation bears the name Trading in the Securities of SenoRx, Inc. (NY-8488). A copy of Mr. Kennedy's State Bar page is attached hereto as Exhibit B.

3. Mr. Kennedy is not available to provide his own Declaration in this proceeding, as he and his spouse, Leslie Kennedy, have been in Europe, on a long planned and pre-paid trip, and they are scheduled to return on May 30, 2012. I advised Barry A. Kamar of the SEC ("Mr. Kamar") of Mr. & Mrs. Kennedy's trip to Europe, both in telephone conversations earlier this month, and by my email of May 15, 2012, a copy of which is attached hereto as Exhibit C.

4. Mr. & Mrs. Kennedy reside in Orange County, California, and his law firm is also located in Orange County, which is in the Southern Division of the Central District of California, with the Court located in the Ronald Reagan Federal Building in Santa Ana, the county seat of Orange County. While Mr. Kamar is located in New York City, the main activities of the investigation are being conducted in the Central District of California, as SenoRx, Inc. was located in Orange County. Mr. Kamar will take the testimony of Mr. & Mrs. Kennedy on Wednesday, June 20, 2012 at the Los Angeles Regional Office of the SEC (Orange County adjoins Los Angeles County), and he will take the testimony of the daughter and son-in-law of Mr. & Mrs. Kennedy on Thursday, June 21, 2012 at the same Office. Additionally, I understand that Mr. Kamar is scheduled to take the testimony of three other individuals who reside in Orange County on June 18, 19 and 22, 2012, at the same Los Angeles Regional Office.

5. As the center of activity in the SEC investigation is in the Central District of California, it will impose an unreasonable and substantial burden on Mr. Kennedy to participate the action now pending in the Southern District of New York, which burden is totally unnecessary since the SEC staff at the Los Angeles Regional Office routinely appear in trials and other proceedings that are conducted in the Central District of California. Further, as I am not admitted to the bar of the Southern District of New York, I was required, acting on his behalf, to engage New York counsel to represent Mr. Kennedy in the pending action while he is in Europe.

6. In an attempt to resolve the pending dispute with Mr. Kamar, regarding the SEC's demand that Mr. Kennedy disclose the names of his clients, whose privacy is protected by Article 1, Section 1 of the Constitution of the State of California, I requested that Mr. Kamar provide me with a list of only the last names of those purchasers of SenoRx, Inc. stock, during the relevant time period, who reside in Southern California, and I would ask Mr. Kennedy to determine if any of the last names on the list matched the last names of any of his clients. However, Mr. Kamar refused to do so, and evinced no interest in working out a compromise which would both provide him with the relevant information for his investigation, and protect the privacy of Mr. Kennedy's clients.

7. Therefore, Mr. Kennedy cannot comply with the Subpoena without subjecting himself to a potential action by The State Bar of California, based on both an alleged violation of California

Business and Professions Code § 6068, which requires that an attorney “*maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client*”, and Rule 3-100 (A) of the California Rules of Professional Conduct which provides “*A member shall not reveal information protected by Business and Professions Code section 6068, subdivision (e)(1) without the informed consent of the client . . .*”.

8. In order to obtain *the informed consent of the client*, Mr. Kennedy would be required to advise each of his clients that the SEC has demanded that he provide their names, addresses, telephone numbers and email addresses (all of which are contained in his Microsoft Outlook contacts list, and many of their names are also contained in his Microsoft Office calendar). This is manifestly unreasonable and unwarranted, and will clearly cause a firestorm of inquiries from his clients, which is particularly unnecessary as Mr. Kennedy did not purchase a single share of SenoRx, Inc. stock. The shares purchased by Leslie Kennedy were financed by funds she received as the beneficiary of both her deceased mother’s trust, and her deceased aunt’s trust, which was her *separate property* under California marital property law. Mr. Kennedy had no knowledge of that purchase, prior to the receipt by him and his spouse of the SEC subpoenas, dated February 27, 2012, and he was a joint tenant on Leslie Kennedy’s Wells Fargo securities account only to provide him with a right of survivorship to the assets in that account.

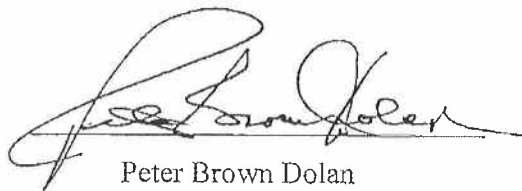
9. In addition to the statutory and professional conduct rule obligations which Mr. Kennedy has, his clients are manifestly entitled to the protections of Article 1, § 1 of the Constitution of the State of California which provides: *All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending, acquiring, possessing, and protecting, and pursuing and obtaining safety, happiness, and privacy.*” [Emphasis added]

10. In making the demand that Mr. Kennedy disclose his client information, the rights of privacy of his clients are disregarded by the SEC, without any prior indication or suggestion that any of his clients actually purchased any SenoRx, Inc. stock during the relevant time period. That initial screening can be readily made by Mr. Kamar providing a list of only the last names of those purchasers of SenoRx, Inc. stock, who made their transactions during the relevant time period, and who also reside in Southern California, so that Mr. Kennedy can determine if any of those

last names match the last names of any individuals who were his clients prior to, or during, the relevant time period , and then so advise Mr. Kamar accordingly.

Executed at Los Angeles, California on this 24th day of May, 2012.

I declare under the laws of the United States that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Peter Brown Dolan", is written over a horizontal line. The signature is fluid and cursive, with the first name "Peter" being the most prominent part of the script.

Peter Brown Dolan

EXHIBIT A

Thursday, May 24, 2012

THE STATE BAR OF CALIFORNIA

ATTORNEY SEARCH

Peter Brown Dolan - #40766

Current Status: Active

This member is active and may practice law in California.

See below for more details.

Profile Information

The following information is from the official records of The State Bar of California.

Bar Number:	40766		
Address:	The Dolan Law Firm Citigroup Center 444 S Flower St Ste 1750 Los Angeles, CA 90071 Map it	Phone Number:	(213) 689-0333
		Fax Number:	(213) 680-9889
		e-mail:	dolanlaw@yahoo.com
County:	Los Angeles	Undergraduate School:	U S Naval Academy; Annapolis MD
District:	District 2		
Sections:	Law Practice Mgmt Solo & Small Firm	Law School:	USC Law School; Los Angeles CA

Status History

Effective Date	Status Change
Present	Active
12/21/1967	Admitted to The State Bar of California

Explanation of member status

Actions Affecting Eligibility to Practice Law

Disciplinary and Related Actions

Overview of the attorney discipline system.

This member has no public record of discipline.

Administrative Actions

This member has no public record of administrative actions.

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EXHIBIT A

EXHIBIT B

Thursday, May 24, 2012



ATTORNEY SEARCH

Craig Patrick Kennedy - #76989

Current Status: Active

This member is active and may practice law in California.

See below for more details.

Profile Information

The following information is from the official records of The State Bar of California.

Bar Number:	76989		
Address:	McNeil, Tropp, Braun & Kennedy, LLP 611 Anton Blvd Ste 1050 Costa Mesa, CA 92626 Map it	Phone Number:	(714) 557-3600
		Fax Number:	(714) 557-3601
		e-mail:	ckennedy@mtbklaw.com
County:	Orange	Undergraduate School:	Univ of Southern Calif; Los Angeles CA
District:	District 4		
Sections:	None	Law School:	Southwestern Univ SOL; Los Angeles CA

Status History

Effective Date	Status Change
Present	Active
12/21/1977	Admitted to The State Bar of California

Explanation of member status

Actions Affecting Eligibility to Practice Law

Disciplinary and Related Actions

Overview of the attorney discipline system.

This member has no public record of discipline.

Administrative Actions

This member has no public record of administrative actions.

Start New Search »

EXHIBIT B

EXHIBIT C



Re: SenoRX (NY-8244)

Tuesday, May 15, 2012 6:58 PM

From: "Peter Brown Dolan" <dolanlaw@yahoo.com>

To: "Barry A.Kamar" <KamarB@SEC.GOV>

Mr. Kamar,

As I have previously advised you, Craig & Leslie Kennedy are in Europe until May 30, 2012 and Craig Kennedy will not be providing un-redacted copies of his calendars, or his contacts lists, or his address book by the close of business on May 16, 2012. I thought I made our position clear on that matter when we spoke by telephone on Thursday, May 10, while I was enroute to Fresno, CA for a deposition, and it remains unchanged.

I did not get the 9th Circuit case referred in your May 4 email. Rather, it only contained an extract starting with: "Blackman argues . . ." and ending with "the federal common law of privilege." As I advised Mr. Ceglie, we are NOT asserting attorney client privilege as the ground for objecting to providing the names of Craig Kennedy's clients.

Peter Brown Dolan

THE DOLAN LAW FIRM
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Los Angeles, CA 90071-2920
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fax: (213) 680-9889

--- On Mon, 5/14/12, Kamar, Barry A. <KamarB@SEC.GOV> wrote:

From: Kamar, Barry A. <KamarB@SEC.GOV>
 Subject: SenoRX (NY-8244)
 To: "dolanlaw@yahoo.com" <dolanlaw@yahoo.com>
 Date: Monday, May 14, 2012, 8:33 AM

Mr. Dolan,

Per our telephone conversation last week, please ask Mr. and Mrs. Kennedy to complete the attached background questionnaire and return the completed questionnaires to me by Wednesday, June 13 at the latest so that I have adequate time to review them before your clients' testimony.

Please also let me know if Mr. Kennedy will produce un-redacted copies of his contact lists and address books by no later than the close of business on Wednesday, May 16.

Thank you.

From: Kamar, Barry A.
 Sent: Friday, May 04, 2012 4:24 PM

EXHIBIT C